

1 **ELLIS M. JOHNSTON**

California State Bar No. 223664

2 **FEDERAL DEFENDERS OF SAN DIEGO, INC.**

225 Broadway, Suite 900

3 San Diego, California 92101-5030

Telephone: (619) 234-8467

5 Attorneys for Mr. Ramirez-Ayala

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
10 **(HONORABLE THOMAS J. WHELAN)**

11 UNITED STATES OF AMERICA,

13 Plaintiff,

18 ALFREDO ENRIQUE RAMIREZ-AYALA,

19 Defendant.

) Case No. 07cr2531-TJW

) Date: May 12, 2008

) Time: 2:00 p.m.

) NOTICE OF MOTIONS AND MOTIONS TO

) 1) PRESERVE EVIDENCE;

) 2) COMPEL DISCOVERY;

) 3) DISMISS THE INDICTMENT;

) 4) DISMISS THE INDICTMENT UNDER

) APPRENDI

) 5) DISMISS ALL COUNTS FOR FAILURE TO

) ALLEGE MENS REA;

) 6) DISMISS THE RESULTING IN DEATH

) CHARGE AS UNCONSTITUTIONAL;

) 7) DISMISS AIDING AND ABETTING

) COUNTS;

) 8) DISMISS INDICTMENT BECAUSE

) MATERIAL WITNESSES WERE

) DEPORTED;

) 9) DISMISS INDICTMENT BECAUSE GRAND

) JURY WAS MISINSTRUCTED;

) 10) BIFURCATE THE TRIAL;

) 11) SUPPRESS STATEMENTS FOR GERSTEIN

) VIOLATION;

) 12) SUPPRESS STATEMENTS FOR PRE-

) ARRAIGNMENT DELAY;

) 13) SUPPRESS STATEMENTS IN VIOLATION

) OF MIRANDA;

) 14) SUPPRESS IDENTIFICATION

) TESTIMONY;

) 15) FILE FURTHER MOTIONS

1 TO: KAREN P. HEWITT, UNITED STATES ATTORNEY; AND
 2 LAWRENCE A. CASPER, ASSISTANT UNITED STATES ATTORNEY.

3 PLEASE TAKE NOTICE that on Monday, May 12, 2008, at 2:00 p.m., or as soon thereafter as
 4 counsel may be heard, Defendant Alfredo Ramirez-Ayala, by and through his attorneys, Ellis M. Johnston,
 5 and Federal Defenders of San Diego, Inc., will ask this Court to enter an order granting the following motions.

6 **MOTIONS**

7 Defendant Alfredo Ramirez-Ayala, by and through his attorneys, Ellis M. Johnston, and Federal
 8 Defenders of San Diego, Inc., moves this Court pursuant to the United States Constitution, the Federal Rules
 9 of Criminal Procedure, and all other applicable statutes, case law, and local rules for an order to:

- 10 1) Preserve evidence;
- 11 2) Compel discovery;
- 12 3) Dismiss the indictment;
- 13 4) Dismiss the indictment under Appendi
- 14 5) Dismiss all counts for failure to allege mens rea;
- 15 6) Dismiss the resulting in death charge as unconstitutional;
- 16 7) Dismiss aiding and abetting counts;
- 17 8) Dismiss the indictment because material witnesses were deported;
- 18 9) Dismiss the indictment because the grand jury was misinstructed;
- 19 10) Bifurcate the trial;
- 20 11) Suppress statements for gerstein violation;
- 21 12) Suppress statements for pre-arraignment delay;
- 22 13) Suppress statements in violation of miranda;
- 23 14) Suppress identification testimony; and
- 24 15) Grant leave to file further motions.

25 These motions are based upon the instant motions and notice of motions, the attached
 26 statement of facts and memorandum of points and authorities, the files and records in the above-captioned
 27 matter, and any and all other materials that may come to this Court's attention prior to or during the hearing
 28 of these motions.

Respectfully submitted,

/s/ Ellis M. Johnston III
ELLIS M. JOHNSTON III
Federal Defenders of San Diego, Inc.
Attorneys for Mr. Ramirez

Dated: May 2, 2008